

**UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION**

UNITED STATES OF AMERICA,

Plaintiff,

v.

Case No. 10-20705

ALI DARWICH,

Defendant.

ORDER DENYING DEFENDANT’S MOTIONS TO CHANGE STAND-BY COUNSEL

On August 10, 2010, pro se Defendant filed a motion to change his stand-by counsel, Fred B. Walker. He later filed a memorandum in support of the motion, which was docketed as a second motion to change his stand-by counsel. The court conducted a hearing on the motions on September 8, 2011, and denied the motions at that time. This order memorializes that ruling. In addition to the findings stated on the record, the court stresses that its authority to appoint stand-by counsel extends even over an objection to stand-by counsel by a defendant. *McKaskle v. Wiggins*, 465 U.S. 168, 183 (1984). Here, Defendant’s objections to his current stand-by counsel are baseless and fantastical. Moreover, the fact that Defendant filed a frivolous lawsuit against his stand-by counsel cannot serve as the basis for disqualification. Even where a defendant has not waived his right to effective assistance of counsel, as Defendant has done, “[a] frivolous complaint against an attorney, or one filed for purposes of delay, or even one filed for the purpose of obtaining new counsel, would not create a conflict of interest” such as to implicate the Sixth Amendment. *Mathis v. Hood*, 937 F.2d 790, 796

(2nd Cir. 1991). Because Defendant has failed to identify any basis to remove Fred Walker, an attorney who is intimately familiar with this case and has proven himself ready and able to continue assisting Defendant in his role as stand-by counsel, the court denied Defendant's motion. For these reasons, in addition to those stated on the record,

IT IS ORDERED that Defendant's "Motion[s] to Change Stand-by Counsel" [Dkt. ## 226 & 254] are DENIED.

S/Robert H. Cleland
ROBERT H. CLELAND
UNITED STATES DISTRICT JUDGE

Dated: September 28, 2011

I hereby certify that a copy of the foregoing document was mailed to counsel of record on this date, September 28, 2011, by electronic and/or ordinary mail.

S/Lisa Wagner
Case Manager and Deputy Clerk
(313) 234-5522